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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,571	07/29/2003	Heon-Heoung Leam	2522-025	8651

7590 01/11/2005
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Portland, OR 97205

EXAMINER

LE, THAO P

ART UNIT	PAPER NUMBER
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2818

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,571

Applicant(s)

LEAM ET AL

Examiner

Thao P. Le

Art Unit

2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-8, 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1 page.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledge is made of applicants' claim for foreign priority base on an application 2002-59554 filed in Korean on 09/30/2002.

Election/Restriction

2. Examiner confirms that Applicants elected to prosecute Claims 9-18, 20, and have withdrawn Claims 1-8, 19 without prejudice.

Claim Rejections

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 9-18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al., U.S. Patent No. 5,933,730, and in view of Sato, U.S. Patent No. 6,232,179.

Regarding claims 9, 20, Sun et al. discloses a method of forming a non-volatile memory device comprising:

- forming gate stack structures on a semiconductor substrate, the gate stack structures separated by a first space on a first area of the substrate and by a second space, wider than the first space, on a second area of the substrate adjacent to the first area (Figs. 9A-9C);

- forming first spacers 714' on sidewalls of the gate stack structures, the first spacer material comprising an insulating material having relatively low dielectric constant (oxide spacer 714, Figs. 9D-9E).

- forming second spacers on the first spacers to fill in the first space (oxide spacer 730, Figs. 9J-9K).

Sun discloses the first and second spacers are made of oxide which has relatively low dielectric constant but fails to disclose the second spacer material comprising an insulating material having a relatively high dielectric constant.

Sato discloses a method of forming gate electrode comprising the first and second spacers whereas the first spacer 14 material comprising a relatively low dielectric constant (silicon oxide, dielectric constant of about 4.2), the second spacer 15 material comprising an insulating material having a relatively high dielectric constant (silicon nitride, dielectric constant of about 6.9).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form a second spacers made of relatively high dielectric constant material such as silicon nitride because the second spacers such as silicon nitride formed on the first spacers would prevent the first spacers and gate stack from silicide during salicidation because oxygen finds it difficult to penetrate silicon nitride and because silicon nitride has low stress, good coverage, low pinhole densities.

Regarding claim 10, both Sun et al. and Sato disclose the first gate spacers comprises an oxide and Sato discloses the second gate spacers comprise a nitride (abstract).

Regarding claims 11-14, it would have been obvious to one having ordinary skill in the art that the thickness of the first and second spacers, the pressure used to form the spacers would have been optimum or working ranges to one having skill in the art. The selection of such parameters such as **energy, concentration, temperature, time, molar fraction, depth, thickness, etc.**, would have been obvious and involve routine optimization which has been held to be within the level of ordinary skill in the art. "Normally, it is to be expected that a change in **energy, concentration, temperature, time, molar fraction, depth, thickness, etc.**, or in combination of the parameters would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree

from the results of the prior art ... such ranges are termed "critical ranges and the applicant has the burden of proving such criticality.... More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller* 105 USPQ233, 255 (CCPA 1955). See also *In re Waite* 77 USPQ 586 (CCPA 1948); *In re Scherl* 70 USPQ 204 (CCPA 1946); *In re Irmischer* 66 USPQ 314 (CCPA 1945); *In re Norman* 66 USPQ 308 (CCPA 1945); *In re Swenson* 56 USPQ 372 (CCPA 1942); *In re Sola* 25 USPQ 433 (CCPA 1935); *In re Dreyfus* 24 USPQ 52 (CCPA 1934).

Regarding claims 15-18, Sun discloses the step of etching the second insulating layer to form second spacers and wherein the gate stack structure is formed by stacking a tunnel dielectric layer, a floating gate, an integrate dielectric layer, a control gate, and it is well known in the art that control gate comprises polysilicon layer and metal silicide layer consisting of CoSi₂, TiSi₂, or NiSi₂ (Cols. 1-6).

5. When responding to the office action, Applicants' are advice to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the day of this letter. Failure to respond within the period for response will cause the application to become abandoned (see M.P.E.P 710.02(b)).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao P. Le whose telephone number is 571-272-1785. The examiner can normally be reached on M-T (7-6).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 571-272-1787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Thao P. Le', with a stylized, cursive script.

Thao P. Le
Examiner